

**Memorandum of Understanding
between
New Castle County, Delaware
and the
Delaware Office of State Planning Coordination**

WHEREAS, the State of Delaware has determined that certain local land use decisions have far reaching and complex effects on the region, resulting in development which often requires the commitment of finite resources by the various levels of government as well as private investors; and

WHEREAS, coordinated review of certain development activities would result in a more efficient, effective and timely use of resources and would also achieve consistency and coordination between the various levels of government and other interested parties; and

WHEREAS, under Title 29, Chapter 92 of the Delaware Code, local land use planning actions by local governments are subject to pre-application review processes by the Office of State Planning Coordination (OSPC); and

WHEREAS, under Title 29, Section 9205 (c) of the Delaware Code, the OSPC shall, through a Memorandum of Understanding, exempt a local jurisdiction from the provisions of the Land Use Planning Act or modify the pre-application process when the local jurisdiction has a Certified Comprehensive Plan and imposes a more stringent review of projects;

NOW, THEREFORE, IT IS HEREBY AGREED AND UNDERSTOOD by and between New Castle County, Delaware and the Office of State Planning Coordination as follows:

- A. Nothing in this agreement shall be construed to deny New Castle County its final decision-making authority over proposed land use planning actions. Additionally, any comments received from state agencies, pursuant to Title 29, Chapter 92 of the Delaware Code, shall not exempt applicants from the responsibility of meeting all requirements set forth and adopted in New Castle County Code. Unless otherwise stated in this agreement, the Office of State Planning Coordination agrees to waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code because New Castle County has imposed a more stringent review of projects enumerated in §9203(a) than required by Title 29, Chapter 92 of the Delaware Code. New Castle County or the developer of any site may request a pre-application review in accordance with Title 29, Chapter 92.
- B. The following land use planning actions are and shall be subject to a State administrative review under Title 29, Chapter 92, Delaware Code:

Any local land use ordinance referred to the Office of State Planning Coordination by New Castle County for the purpose of providing the County with advisory comments. These include the modifications to the County's zoning and


subdivision ordinances that implement the Comprehensive Plan. The submission of ordinances for review under this provision is voluntary.

2. Any amendment, modification or update to the New Castle County Comprehensive Development Plan, as required by Title 9 of the Delaware Code
 3. Any other project which is required to be referred to the State for review by New Castle County regulations. For any residential application that exceeds 1.3 dwelling units per acre the Department and the State may, upon mutual consent, have the application reviewed in accordance with the provisions of Title 29, Chapter 92 of the Delaware Code at the exploratory stage of the plan as defined by the County.
 4. Any application for rezoning that is inconsistent with the land use recommendations set forth in the current certified New Castle County Comprehensive Plan except where the non-conformity is a minor variation. A rezoning shall be considered a minor variation from the Comprehensive Plan when the following conditions are met:
 - a. The rezoning is of a unique circumstance and can not set precedent for other lands in the vicinity of the rezoning;
 - b. The relative size of the rezoning or the variation from the land use recommended by the Comprehensive Plan is minor and would have no impact on the goals and objectives of the Comprehensive Plan;
 - c. The proposed zoning is adjacent to or in the immediate vicinity of other similarly zoned land and would not alter the pattern of development in the area;
 - d. The proposed zoning is a corrective or proactive zoning by New Castle County.
- C. New Castle County shall identify those projects meeting the criteria defined in this agreement for State review, direct applicants whose projects meet State review criteria to submit necessary documents to the Office of State Planning Coordination in order to initiate the Preliminary Land Use Service (PLUS) review process, and not approving those projects requiring PLUS review until such time as the Office of State Planning Coordination has issued comments, as defined in Title 29, Section 9204 (c) of the


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Delaware code, to the applicant and New Castle County.

- D. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both New Castle County and the Office of State Planning Coordination.



Thomas P. Gordon, County Executive
New Castle County, Delaware
6-15-04
Date



Constance C. Holland, Director
Office of State Planning Coordination
6-24-04
Date